

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re

Chapter 11

PERSONAL COMMUNICATIONS  
DEVICES, LLC, *et al.*,<sup>1</sup>

Case No. 13-74303 (AST)  
13-74304 (AST)

Debtors.

(Jointly Administered)

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**CONTESTED MATTER SCHEDULING ORDER**

The Court enters this Order in accordance with Federal Rule of Civil Procedure 16, as incorporated by Rules 7016 and 9014 of the Federal Rules of Bankruptcy Procedure.

Pending before the Court are the following:

Motion of HTC Corporation and HTC America, Inc. (“HTC”) for Allowance and Payment of Administrative Claim [dkt item 264]

Debtors’ Objection [dkt item 294]

Joinder of the Official Committee of Unsecured Creditors (“Committee”) to the Debtors’ Objection [dkt item 312]

(collectively, the “Motions”)

**Hearing Date and Time Limits:**

1. An evidentiary hearing (“Hearing”) on the Motions shall be held on **March 19, 2014 at 2:00 p.m.**, in Courtroom 960, United States Bankruptcy Court, 290 Federal Plaza, Central Islip, New York.

Each side will be given sixty **(60) minutes** to present all arguments and evidence; for purposes hereof, HTC is one side and the Debtor and Committee are the other (each a “Party” and collectively, the “Parties”).

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four (4) digits of each Debtor’s federal tax identification number, are: Personal Communications Devices, LLC, a Delaware limited liability company (4171) and Personal Communications Devices Holdings, LLC, a Delaware limited liability company (4096). The Debtors’ mailing address is 80 Arkay Drive, Hauppauge, Suffolk County, NY 11788.

**Direct Testimony by Affidavit:**

2. The Parties shall submit any direct testimony from themselves and any witness under their control (including experts) by Affidavit signed by the witness(es). Affidavits shall be filed with the Court no later than **March 10, 2014 at 12:00 p.m.**; copies of the filed Affidavits shall be served upon the opposing Party or Parties by facsimile, electronic mail, or first class mail contemporaneously with the filing of same with the Court. Any witness for whom an Affidavit of direct testimony has been filed must appear at the Hearing for cross-examination. Any objection to any portion of a witness affidavit, including evidentiary objections, shall be filed no later than **March 13, 2014**.

Nothing contained herein, however, shall limit the applicability of Rule 7032 of the Federal Rules of Bankruptcy Procedure.

**Joint Prehearing Memorandum and Prehearing Submissions:**

3. The Parties are ordered to file by **March 10, 2014, at 12:00 p.m.**, a Joint Prehearing Memorandum approved by all counsel, which sets forth the following:
  - (A) The name, address and telephone number of each witness, separately identifying those whom the Party expects to present and those whom the Party may call if the need arises.
  - (B) A list of witnesses whose testimony is expected to be presented by means of deposition and, if taken stenographically, a transcript of the pertinent portions of the deposition testimony.
  - (C) A list of witnesses intended to be called as experts along with a summary of their qualifications, together with any statement(s) as to an objection to their qualification.
  - (D) An appropriate identification (preenumeration) of each document or other exhibit, other than those to be used for impeachment or rebuttal, in the sequence in which they will be offered, including summaries of other evidence, separately identifying those exhibits which the Party expects to offer and those which the Party may offer if the need arises.
  - (E) A statement of any objection, together with the grounds therefor, reserved as to the admissibility of a deposition designated by another Party and/or to the admissibility of documents or exhibits. Objections not so disclosed, other than objections under Rules 402 and 403 of the Federal Rules of Evidence, shall be deemed waived unless excused by the Court for good cause shown;

- (F) A statement confirming that the Parties have exchanged copies of the exhibits, other than to be used for impeachment or rebuttal, no later than March 10, 2014; and
- (G) Facts which are admitted and require no proof.
4. The Parties may each file hearing briefs and submit proposed findings of fact and conclusions of law contemporaneous with the filing of the Joint Prehearing Memorandum.
5. Parties shall bring sufficient copies of all exhibits to Court for the Hearing so that a copy is available for the Courtroom Deputy, the witness and each counsel. The Parties shall provide one (1) additional set of exhibits in hard copy, and two (2) additional sets on a CD Rom, flash drive or other media to Chambers no later than **March 13, 2014**. Exhibits shall be assembled in notebooks tabbed with appropriate exhibit numbers (HTC shall designate its exhibits using letters, and Debtors and the Committee shall designate their exhibits using non-duplicative numbers).
6. Pleadings filed in accordance with this Order shall be filed as editable text, and shall **not** be filed as scanned images.

**Sanctions for Non-Compliance:**


7. Failure to strictly comply with any of the provisions of the Order may result in the automatic entry of a dismissal, sanctions, a default, or other relief as the circumstances warrant, in accordance with Federal Rule of Civil Procedure 16, as incorporated by Federal Rules of Bankruptcy Procedure 7016 and 9014.

**Service:**

8. Debtor shall serve a copy of this Order by no later than **February 18, 2014** (and shall file proof of service by **February 20, 2014**) upon the following by regular mail:
- The United States Trustee for the Eastern District of New York;
  - HTC's Counsel; and
  - The Committee's Counsel.

**Dated: February 14, 2014**  
**Central Islip, New York**



  
**Alan S. Trust**  
**United States Bankruptcy Judge**